

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

JANE DOES I, II, III and FRIENDS
OF FARMWORKERS, INC. D/B/A
JUSTICE AT WORK IN ITS
CAPACITY AS EMPLOYEE
REPRESENTATIVE,

Plaintiffs,

Case No.: 3:20-cv-01260

EUGENE SCALIA, IN HIS OFFICIAL
CAPACITY AS UNITED STATES
SECRETARY OF LABOR;
OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION,
UNITED STATES notice
DEPARTMENT OF LABOR,

Defendants.

PLAINTIFFS' PROPOSED PLANS FOR MAY 31 HEARING

Plaintiffs wish to update the Court on the evidence they wish to produce at the Friday, July 31 hearing and address certain procedural matters that have arisen. Plaintiffs have discussed these matters with Defendants via videoconference and email. If the Court wishes to discuss the plan outlined below, Plaintiffs propose a telephonic status conference between the Court and the parties sometime on Thursday, July 30 to assure that the hearing can go forward in an orderly manner.

Plaintiffs propose beginning with an opening statement to address Defendants' motion and outline the evidence they intend to present. As ordered by

the Court, lead counsel for Plaintiffs will be physically present at the courthouse in Scranton to introduce documents into evidence, but counsel appearing via video may offer Plaintiffs' opening statements.

Plaintiffs also intend to present witnesses for examination, who are from outside the jurisdiction and wish to appear remotely. Thus, Plaintiffs request that they be allowed to invite witnesses to the videoconference at the appropriate time or be provided a mechanism to call witnesses via the videoconference. Defendants have informed Plaintiffs any witnesses they call will be physically present. Plaintiffs' counsel who are not physically present in the courtroom may also conduct direct and cross-examination via videoconference.

In addition to the witnesses Plaintiffs are prepared to present for examination in open court, at least two additional Maid-Rite workers, also wishing to proceed anonymously, are prepared to offer evidence in support of Plaintiffs. This evidence will be proffered in the form of declarations submitted to the Court in advance of Friday's hearing. The witnesses are willing to present themselves for questioning, but, because at least one of these witnesses is currently a Maid-Rite employee, Plaintiffs request that the Court arrange a time outside of business hours where these witnesses can testify, that the courtroom be closed for their testimony, and Plaintiffs be allowed to move to place their identifying information under seal.

Finally, Plaintiffs request that the Court permit post-hearing briefs summarizing the evidence presented at the hearing and its bearing on Plaintiffs' mandamus petition and Defendants' motion to dismiss. Plaintiffs propose that they be provided until Wednesday, August 5 for their brief, which will also serve as their opposition to Defendants' motion to dismiss, and that Defendants be permitted to file a posthearing brief, which will also serve as their reply in support of their motion to dismiss, by August 7.

Respectfully submitted this 29th day of July 2020.

s/ David S. Muraskin,
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* application for admission *pro hac vice*
forthcoming

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